

Subject: **ACTION:** Program Guidance Letter 00-2

Date:

From: Manager, Airports Financial Assistance  
Division, APP-500

Reply to  
Attn. of:

To: PGL Distribution List

00-2.1 The Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century – Jim Borsari (202) 267-8822.

On April 5, 2000, the President signed into law the aforementioned Act, and Public Law Number 106-181 has been assigned. This is one of several program guidance letters that will address issues raised by the legislation. The legislation will be referred to as AIR-21.

00-2.1 Innovative Finance Demonstration Program Extension - Mark Beisse (202) 267-8826.

AIR-21 extends section 148 of the Federal Aviation Reauthorization Act of 1996, which established an innovative finance demonstration program (IFDP). During fiscal years 2000 through 2003 the IFDP extension allows an additional 20 airport development projects at small and non-hub airports as well as any non-primary commercial service or general aviation airport. Large and medium hub airports have been excluded.

The limitations on, and types of, financing techniques are the same as described in PGL 97-2.6. In addition, a technique allowing the use of State apportionment funds and/or passenger or cargo entitlements for the payment of principal and interest of terminal development costs incurred before enactment has been included. We anticipate using the IFDP review panel to screen projects as previously done for the fiscal years 1997 through 1998 program.

Criteria for projects are similar as contained in the above PGL. However, the financial completion end date no longer applies. Based on a colloquy between Representatives Mica and Shuster, we may decide to issue more than one grant at the same airport on the new reimbursement for terminal development.

Please send by July 15 the Attachment A letter to potential sponsors. It is not anticipated that any projects using discretionary funding will be awarded prior to next fiscal year. Projects using entitlement funding could be selected prior to FY 2001. Please forward to APP-510 your recommended IFDP candidates by October 30, and do not disclose your recommendation to sponsors or request project applications pending notification by APP-500 that a selection has been made. Regions may forward proposals and recommendations before October 30 or any other established deadline for a recommendation in succeeding years. When a deadline is established for a fiscal year, however, late proposals will likely be deferred until a future year and revisions may be required.

#### 00-2.2 Block Grant Issues - Mark Beisse (202) 267-8826.

Section 138 of AIR-21 amends Title 49, United States Code (USC), to authorize another qualified State participant under the State Block Grant Program, for fiscal year 2002 and beyond.

As before, States currently using this feature of the Airport Improvement Program will continue unless we receive notice from you to the contrary. In fairness for the prospective State applicants, regions should promptly confer with current block grant states regarding their intentions to continue participation.

States that have been selected for the block grant program in the past have told us that new entrants need a long lead time in order to transition into the program. In order to provide this lead-time we plan to hold a State selection process early next year but defer participation of this new participant until October 1, 2001. This will give the selected participant a number of months to transition into a block grant operation. The original 3 pilot program selections made during 1989 (Illinois, Missouri and North Carolina) were augmented with 4 states in 1993 (Michigan, New Jersey, Texas, and Wisconsin) and 2 more when the program was made permanent by 1997 (Pennsylvania and Tennessee).

The information in Program Guidance Letter 96-1 is current on State application procedures. That guidance is on our Web Page. We anticipate having a draft of the AIP handbook provisions on block grants to regions for review later this year. However, the guidance is essentially the same as it has been from the beginning of the pilot program. Some later reports and memoranda have also been provided.

Please send by July 15 the Attachment B letter to State aviation officials, other than current participants, inviting them to apply for a block grant. This letter also should be sent to non-State entities defined as states by 49 USC 47102. The letters should be sent with the attachments to PGL 96-1 together with the two applicable sets of standard airport and noise project assurances.

Each region should forward no later than November 1 applications of up to two states meeting 49 USC 47128(b) and Part II application requirements as its recommendation based on the strength of State proposals. Do not disclose your recommendation to states. Regions should not approve any State block grant for new or current states without notice by APP-520 that an announcement can be made.

### 002.3 New Pavement Maintenance Eligibility - Mark Beisse (202) 267-8826.

Section 123 of AIR-21 adds a new section 47102(3)(H), permitting AIP funds to be used for routine work to preserve/extend useful life of runways, taxiways, and aprons at non-primary airports.

The new law repeals 49 USC 47132, which temporarily allowed pilot projects for pavement maintenance as described in Program Guidance Letter 97-3.2. The background of this test program is that in accordance with section 132 of the Airport and Airway Safety, Capacity, Noise Improvement and Intermodal Transportation Act of 1992, we reviewed pavement maintenance at non-hub and non-primary airports. This review resulted in a determination that the AIP eligibility of pavement maintenance at small airports would be cost effective.

Nine pavement maintenance pilot grants were made totaling \$1,219,189. The grants were issued to five States and one airport sponsor during fiscal years 1997 to 1999. During this time, 52 individual airports benefited from projects, and the overall average cost per airport is \$23,446. For airports benefiting from the pilot program, see Attachment C. The six project sponsors had average costs per airport ranging from \$10,310 to \$66,667. The wide range of amounts result from two States and the airport sponsor having projects in both fiscal years 1997 as well as 1998. Only State apportionment funds were used.

The permanently expanded eligibility will be the first significant involvement of Federal airport financial assistance programs on a routine operations/maintenance cost. Capital improvement costs, rather than maintenance, have normally been associated with the AIP. As such, we need to be aware of the ramifications of blurring the line between maintenance versus capital costs with respect to grant obligations. Airports are obligated to operate and maintain their airfield in a safe and serviceable condition as the result of prior grants. The guidance for pavement maintenance projects below are based in part on this concern.

For purposes of the newly eligible projects, we have limited the definition of this work. Routine maintenance is the cleaning, filling, as well as sealing of longitudinal and transverse cracks on a periodic basis. This includes grading the edges of pavement, cleaning the drainage facilities, patching of the paved areas, seal coats, and airfield remarking. Related capital costs for major repair or reconstruction with a 20-year life cycle has been separately eligible. Ineligible

pavement maintenance includes costs of what may commonly be more frequent sweeping to remove mud, dirt, sand, aggregate, debris, foreign objects, water, snow, ice, and other loose contaminants.

It will not be adequate for the airport's sponsor to determine the airport has insufficient financial capability of its own to make the new pavement maintenance projects eligible. Based on our evaluation of the pilot work, eligibility for projects is limited to the following airports:

- The airport sponsor must be unable to fund maintenance under the grant assurances using its own resources. This will include a determination that the transferring of necessary funds to the airport from other accounts of the sponsor was either illegal at the time of the applicable grant agreements or is not sufficient for adequately maintaining the pavements.
- The airport shall agree to undertake and keep current at least the minimum pavement maintenance program as required in PGL 95-2. The special condition of that PGL must be understood by the sponsor and included in maintenance projects. This will require continuing oversight by the region to ensure that an action plan is in place for forming partnerships with local or State entities on maintenance.
- Where the sponsor of a maintenance project is a State aviation agency, pavement condition tracking for the airports included should be a current part of the State's airport system planning.

Please contact APP-510 for assistance on the eligibility of pavement maintenance.

00-2.4 Use of Discretionary Funds to Continue a Multiyear project – Ken Ball (202) 267-7436.

Section 135 of AIR-21 permits the Secretary to continue to offer a grant to pay the United States Government's share of a not yet completed multiyear project's costs from the discretionary fund if an airport's status drops from a primary to nonprimary airport. Under multiyear arrangements, the project is funded from an airport's passenger entitlement funding but if an airport falls below 10,000 enplanements, the airport is not apportioned passenger entitlements.

Similarly, AIR-21 permits the Secretary to continue to support a terminal project, if a commercial service airport is undertaking terminal development on a phased funding basis and the airport becomes a general aviation (GA) airport before project completion. Even though GA airports may not receive grants for terminal development, this provision would permit project completion. This provision is subject to the availability of discretionary funds and would be limited to the \$200,000 annual limitation for terminal development at commercial service

airports. For this portion, the letter transmitting the initial grant offer should include the following statement, “This grant is the initial phase of a phased funding arrangement for terminal development. In the event that the airport no longer meets the definition of a commercial service airport as defined in section 47102(7) of title 49, United States Code, with respect to the number of passenger boardings, during the phased funding arrangement, the airport will remain eligible for grants to complete the phased arrangement under section 47108(e)(2) of title 49, United States Code, subject to the availability of funds.”

00-2.5 Use of State Highway Specifications for Airfield Pavement – Ken Ball (202) 267-7436.

This new provision allows the Secretary to permit the use of State highway specifications for airfield pavement construction at small airports only if the Secretary determines that safety will not be negatively affected and the life of the pavement will not be shorter than it would be if constructed using FAA pavement standards. The provision is limited to construction at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight. Regions and ADOs must coordinate these findings with the Engineering Specifications Division, AAS-200, prior to permitting these specifications.

The use of this provision will also require a special condition to the grant. This special condition must state that use of the State highway specifications for airfield pavement construction will prohibit the sponsor from seeking AIP grant funds for the rehabilitation or reconstruction of any such airfield pavement for a period of 10 years after construction is completed unless the Secretary determines that the rehabilitation or reconstruction is required for safety reasons.

This new provision should not be confused with Advisory Circular 150/5100-13A, Development of State Standards for Nonprimary Airports, which provides a procedure for approval of state standards that is permitted under section 47105(c) of title 49, United States Code. Where prior approval of State Standards have been received under this provision, use of the recommended pavement design structural sections contained therein do not require a special condition.

00-2.6 Eligibility of Windshear Detection Equipment and Stainless Steel Adjustable Lighting Extensions as Airport Development – Ken Ball (202) 267-7436.

AIR-21 amends the definition of airport development to include certified windshear detection equipment and stainless steel adjustable lighting extensions that are approved by the Administrator. These items are now AIP Program eligible as airport development projects.

The Statement of Managers accompanying the final legislation encourages the FAA to review the possibility of using a Light Detection and Ranging (LIDAR) system capable of measuring and predicting windshear using eye safe wavelengths. The Committee urges the FAA to continue to review and proceed with certification activities for LIDAR and other windshear detection devices where appropriate.

As of this date LIDAR is currently in a research, development, and testing phase. When the system is ready for fielding system standards, specifications, and equipment certification must be completed. At that time AIP programming may be accomplished. Until that time no LIDAR systems are to be programmed.

If a sponsor requests another type of windshear detection equipment, such as a Low-Level Windshear Alert System (LLWAS) the project must be referred to APP-510 for an eligibility determination on a case-by-case basis. This is an F&E program and the Sponsor must meet the requirements contained in Order 7031.2C, Airway Planning Standard Number One Terminal Air Navigation Facilities And Air Traffic Control Services. The data provided by the equipment must be directly provided to pilots. Equipment providing data to air traffic control would not be eligible.

The stainless steel adjustable lighting extensions are currently allowable as Type II L-868 field fabricated extensions. However, a more definitive performance specification will be written and included in a future advisory circular. This will permit the certification of a prefabricated stainless steel extension within its own equipment type certification. The manufacturer has obtained 3<sup>rd</sup> party equipment certification and is listed in the Addendum to AC 150/5345-53B.

#### 00-2.7 Informational notice concerning a court injunction – Ken Ball (202) 267-7436

We have been advised that the United States District Court for the Southern District of Texas has issued a court order prohibiting Schenzhen CIMC-Tianda Airport Support, LTD. from directly or indirectly manufacturing, co-producing, marketing, selling, or attempting to sell any apron-drive passenger loading bridge anywhere in the world other than of its own design until May 22, 2006.

This information is provided only to avoid potential contracting difficulties. FAA personnel should not take any action regarding this court injunction other than to provide the information to airport sponsors. For additional information on the prohibited equipment please see attachment D (the court order).

#### 00-2.8 State Apportionment and System Planning Projects – Mark Beisse (202) 267-8826.

Section 104(c)(6) of AIR-21 amends section 47114(d) to permit the use of State apportionment funds in system plans that involve one or more primary airports. Under the previous restrictions, State apportionments could only be used for nonprimary commercial service, general aviation, and reliever airports.

Use of the entitlement fund on system planning projects for nonprimary airports was first allowed by policy during fiscal year 1994. This provision will simplify the funding of system planning so planning elements and activities related to any primary airport can be funded with State apportionment funds.

For assistance on the funding category used in system plan projects, contact APP-510.

Barry L. Molar

File:

WP: PGL00-2b.doc

APP-510:various:jm:73831:06/05/2000

## Attachment A

Dear \_\_\_\_:

I invite the [sponsor name] to express interest in being selected for an Airport Improvement Program project as part of the innovative finance demonstration program (IFDP) under Title 49, United States Code, section 47135.

A new technique has been added to the program allowing use of State apportionment funds and passenger or cargo entitlements for the payment of principal and interest of the terminal development costs incurred before April 5, 2000.

The other techniques included in the IFDP during fiscal years 1997 and 1998 continue to be:

- Payment of interest;
- Commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development; and
- Flexible non-Federal matching requirements.

Should you wish to be considered for this demonstration program, please reply in writing identifying your strategy and the innovation in the financing proposed. Proposals should be short, but you need to conceptually explain the anticipated beneficial effects of the financing mechanism to be implemented. Your proposal should include a short prospectus with the project description, innovative finance techniques, and anticipated benefits. We are most interested in proposals that will accelerate necessary projects and leverage small amounts of Federal funds with State, local, or private funding. Several successful candidates in the past have entered into airport borrowing to accomplish this objective.

If you wish to be considered for selection in Fiscal Year 2001, you should begin developing your proposal as soon as possible. At the current time, we anticipate being asked to submit our recommendations in October or November. In order for us to meet this deadline, you should forward your proposal no later than \_\_\_\_\_. **[Regions/ADO should insert an appropriate date]** Requests for entitlement funds can be submitted earlier. Projections for time or cost savings in the prospectus should be as detailed as possible. However, please do not prepare a complete project application until we have determined the concept meets statutory criteria.



You may telephone me directly at \_\_\_\_ with a comment or question about this program.

Sincerely,

Airports Division [or District Office] Manager

Attachment B

Dear \_\_\_\_:

I invite the State of \_\_\_\_ to compete for selection as a State to be added to the block grant program under the Airport Improvement Program (AIP) as authorized by Title 49, United States Code (USC), section 47128.

We anticipate adding another State for participation beginning in fiscal year 2002. Your application should be sent to me for receipt by October 1 this year. The application forms and the instructions that were used for selecting the last two states are enclosed.

One change we have recently made is that no further exemption from the regulatory prohibition on using AIP funds for program administrative costs is likely to be granted. We intend to select the strongest State aviation agency and avoid the expense of using AIP funds for this purpose if possible.

Criteria to be used by the Federal Aviation Administration for selecting the State from applications are those identified in 49 USC 47128. The selection is to be made by January 15, 2001.

You may telephone me directly at \_\_\_\_ with a comment or question about this program.

Sincerely,

Airports Division Manager

## ATTACHMENT C

### AIRPORTS BENEFITING FROM A PILOT MAINTENANCE PROJECT

<b>Airport</b>	<b>Associated City</b>	<b>Airport Role</b>	<b>Based Aircraft</b>
Berlin Municipal	Berlin, NH	General Aviation	26
Boire Field	Nashua, NH	Reliever	384
Claremont Municipal	Claremont, NH	General Aviation	23
Concord Municipal	Concord, NH	General Aviation	66
Dillant-Hopkins	Keene, NH	General Aviation	54
Laconia Municipal	Laconia, NH	General Aviation	97
Mt. Washington Regional	Whitefield, NH	General Aviation	25
Skyhaven	Rochester, NH	General Aviation	79
Edward F. Knapp State	Barre-Montpelier, VT	General Aviation	61
Franklin County State	Highgate, VT	General Aviation	23
Middlebury State	Middlebury, VT	General Aviation	55
Morrisville-Stowe State	Morrisville, VT	General Aviation	28
Newport State	Newport, VT	General Aviation	18
Rutland State	Rutland, VT	Non-Primary Commercial Service	41
Springfield State/Hartness	Springfield, VT	General Aviation	37
William H. Morse State	Bennington, VT	General Aviation	43
Bibb County	Centreville, AL	General Aviation	2
Blackwell Field	Ozark, AL	General Aviation	69
Centre Municipal	Centre, AL	General Aviation	15
Fairhope Municipal	Fairhope, AL	General Aviation	35
Foley Municipal	Foley, AL	General Aviation	35
Greenville Municipal	Greenville, AL	General Aviation	10
Headland Municipal	Headland, AL	General Aviation	24
Posey Field	Haleyville, AL	General Aviation	14
Robbins Field	Oneonta, AL	General Aviation	15
Rountree Field	Hartselle, AL	General Aviation	13
Russellville Municipal	Russellville, AL	General Aviation	21

Shelby County	Alabaster, AL	Reliever	88
St. Clair County	Pell City, AL	Reliever	83
Canton Municipal	Canton, SD	General Aviation	7
Gettysburg Municipal	Gettysburg, SD	General Aviation	17
Great Planes	Tea, SD	General Aviation	35
Harding County	Buffalo, SD	General Aviation	4
Martin Municipal	Martin, SD	General Aviation	9
Parkston Municipal	Parkston, SD	General Aviation	8
Springfield Municipal	Springfield, SD	General Aviation	7
Webster Municipal	Webster, SD	General Aviation	6
Allen Parish	Oakdale, LA	General Aviation	2
Beauregard Parish	DeRidder, LA	General Aviation	23
DeQuincy Industrial Airpark	DeQuincy, LA	General Aviation	12
George R. Carr Memorial	Bogalusa, LA	General Aviation	31
Hart	Many, LA	General Aviation	6
Homer Municipal	Homer, LA	General Aviation	4
Jennings	Jennings, LA	General Aviation	23
Rayville Municipal	Rayville, LA	General Aviation	22
Red River	Coushatta, LA	General Aviation	7
Slidell	Slidell, LA	Reliever	87
South Lafourche	Galliano, LA	General Aviation	2
Vivian	Vivian, LA	General Aviation	6
Portland-Hillsboro	Hillsboro, OR	Reliever	405
Portland-Mulino	Mulino, OR	Reliever	63
Portland-Troutdale	Troutdale, OR	Reliever	182

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
ENTERED

FMC CORPORATION

Plaintiff,

*versus*SHENZHEN CIMC-TIANDA AIRPORT  
SUPPORT, LTD, *et al*,

Defendants,

§  
§  
§  
§  
§  
§  
§  
§

JUL 27 1999

Michael N. Milby, Clerk

CIVIL ACTION H-98-1007

Order Dissolving Preliminary Injunction  
and  
Recognizing and Enforcing Arbitral Award

Under the arbitration tribunal's June 14, 1999, award an issues other than costs and on FMC Corporation's application,

1. The preliminary injunction originally entered by this court on August 3, 1998, as modified on August 27, 1998, and on January 15, 1999, is dissolved and.
2. This court confirms the Final Award on Issues Other Than Costs:

Until May 22, 2006 Shenzhen CIMC – Tianda Airport Support Ltd. Is enjoined from directly or indirectly manufacturing, co-producing, marketing, selling or attempting to sell any apron-drive passenger loading aerobridge anywhere in the world other than of its own independent design, incorporating, as such, any one or more of the following Jetway designs-

- a. Rotunda Base having – Torque box rigid frame to column connection; Adjustable floor;
- b. Rotunda Roof and Ceiling having- Cantilevered roof and ceiling system; Coiling roller support system

- c. Rotunda and Tunnel Connection having –  
Clevis tunnel pin tunnel to rotunda connection at floor level; Hockey puck shaped tunnel lateral stabilizer pads on upper rigid frame; Removable lifting lugs; Exterior screw and tab idler barrel adjustment; Curtain support alignment roller;
- d. Tunnel Structure having -  
Open tunnel floor in overlapping region; Wireway cable carrier below larger tunnel section; Compact tunnel roller system;
- e. Cab and Canopy and Stairs having –  
Curtain windows; Pleated canopy curtain (with seven intermediate supports); Nylon canopy curtain alignment straps; Side hinge vertical canopy support mechanism mounted on support plate; Kickback spring (canopy protection against aircraft loading); Canopy fireguard; Service stairs with double bottom stringer; Service stairs with lateral bracing;
- f. Vertical Drive System having –  
Independent lift columns mounting system; Ball screw drive operating mechanism; Pop out plate protection against rack condition; Adjustable mounting plates; Four bolt attachment plastic bearing pads cover plates;
- g. Horizontal Drive System having –  
Independent electric drive wheel rotation system; Adjustable motor mounts; Chain guard; Lift column to cross tube mounting plates on cross tube; Mechanical stop oversteer protection; Square swivel tube; Swivel tube saddle; or Trunnion pins through saddle and axle tube.

Signed July 23, 1999, at Houston, Texas.

/S/

---

Lynn N. Hughes  
United States District Judge